

**FINANCIAL PROBLEMS ARISING FROM CHANGES
IN SCHOOL DISTRICT BOUNDARIES**

BY

NEIL FORD GARVEY

B.S., University of Illinois, 1924

M.S., University of Illinois, 1928

AN ABSTRACT OF A THESIS

**SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF DOCTOR OF PHILOSOPHY IN
POLITICAL SCIENCE IN THE GRADUATE SCHOOL
OF THE UNIVERSITY OF ILLINOIS, 1943**

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FINANCIAL PROBLEMS ARISING FROM CHANGES IN SCHOOL DISTRICT BOUNDARIES

PURPOSE OF THE STUDY

This study was undertaken for the purpose of surveying and analyzing the legal provisions of the several states pertaining to the adjustment of fiscal problems which arise out of change in the territorial pattern or corporate structure of school districts. It is a further purpose of the study to evaluate these data with the hope that certain general conclusions may be drawn as to what features are desirable in a statute designed to control such devolution of assets and liabilities of altered districts.

SOURCES OF INFORMATION

Because of the nature of the problem, the study was based primarily on state materials, although some limited use was made of pertinent federal laws and decisions. Constitutional provisions were drawn both from the individual codes and from the compilation of constitutions of the states and of the United States prepared for the New York State Constitutional Convention of 1938. For statutory material, both the codes and session laws were utilized. Since copies of the session laws of the various states for the current legislative year were not yet available in all instances, the treatment of statutory provisions covers only those laws in force down to January 1, 1943. For court decisions, the reports of the National Reporter System, as well as official reports, were used. Extensive use was also made of the American Digest System and Shepard's Citators as means of locating citations to pertinent court decisions. To some limited extent, the data secured from the statutes and court decisions were supplemented by information obtained through correspondence or personal interviews with public officials charged with res-

ponsibility for the interpretation and administration of the laws controlling financial adjustments in the wake of district boundary alterations.

Frequent use was made of *Black's Law Dictionary* and of legal encyclopedias such as *American Jurisprudence*, *Corpus Juris*, *Cyclopedia of Law and Procedure*, and *Ruling Case Law*. Treatises and general works on municipal corporations, contracts, real and personal property, local government, problems of taxation, school law, school finance, and the organization and administration of the American system of public education were drawn upon for general background material and for intensive treatment of special phases of the general problem. Typical of the works thus used are the following: J. F. Dillon's *Commentaries on the Law of Municipal Corporations*, (1911), *The Law of Municipal Corporations* (1928, and supplements as revised) by Eugene McQuillan, Chitty's *Treatise on the Law of Contracts* (19th edition, 1937), *The Law of Contracts* (1920) by William H. Page, *A Treatise on the Law of Property* (1927) by William F. Walsh, *Cases and Materials on Municipal Corporations* (1942) by Charles W. Tooke and John A. McIntire, *Government in Rural America* (1937) by Lane W. Lancaster, *Metropolitan Government* (1942) by Victor Jones, *Government of Metropolitan Areas* (1930) by Paul Studenski, *Cases on the Law of Taxation* (1935) by John M. Maguire and Roswell Magill, *The Courts and the Public Schools* (1933) by Newton I. Edwards, *The Law and Public Education* (1941) by Robert H. Hamilton and Paul R. Mort, *Public School Finance* (1941) by Paul R. Mort and Walter C. Reuser, *Safeguarding School Funds* (1929) by N. H. Linn, *Public Borrowing* (1930) by Paul Studenski, *Introduction to American Public Education* (1942) by Chris A. DeYoung, and *Public School Organization and Administration* (1931) by Fred Englehardt.

STATEMENT OF THE PROBLEM

Public Education in America, though administered principally by local governmental units, is considered in law to

be a matter of statewide, rather than of merely local, concern.¹ The public school, indeed, is looked upon as a state institution dedicated to the task of maintaining civil society, promoting the public welfare, and assuring the preservation of the state. Local governmental units which administer the public schools do so as agents of the state. But while this doctrine is accepted, as a matter of theory, many of its implications are not adhered to in actual practice. Thus, much of the school legislation throughout the various states is sketchy and piecemeal, attesting to the fact that it has apparently been enacted in response to the activities of pressure groups of varied interests, rather than upon the basis of a well considered plan for a state system of education.

This lack of broad comprehensive treatment is nowhere more evident than in the character of statutes pertaining to the alteration of school district boundaries. Although the power of the legislature, subject to constitutional limitations, is plenary both with respect to such changes and to the attendant adjustment of assets and pre-existing liabilities, in many states this power has remained virtually unexercised. Yet, due to various causes, realignments of district boundaries and changes in the corporate status of districts are continually occurring. In some states, each such alteration requires direct action by the legislature. Many others have enacted general legislative authorization for the alteration of district boundaries, but without making any provision for the financial adjustments which will be entailed.

¹ *City of Louisville v. Commonwealth*, 134 Ky. 488, 121 S.W. 411 (1909); *Bissell v. Davidson et al.*, 65 Conn. 183, 32 Atl. 348 (1894); *Leeper v. State*, 130 Tenn. 500, 53 S.W. 826 (1899); *State ex rel. Harned v. Meader*, 153 Tenn. 643, 284 S.W. 890 (1926); *State v. Haworth*, 122 Ind. 463, 23 N.E. 946 (1890); *MacQueen v. Port Huron City Commission*, 194 Mich. 328, 160 N.W. 927 (1916); *Attorney General v. Board of Education of Detroit*, 154 Mich. 584, 118 N.W. 606 (1908); *Revell et al. v. Mayor of Annapolis*, 81 Md. 1, 31 Atl. 695 (1895); *City of Edina v. School District of City of Edina*, 305 Mo. 452, 267 S.W. 112 (1924); *Fogg v. Board of Education of Union School District of Littleton et al.*, 76 N.H. 296, 82 Atl. 173 (1912); *Fenton v. Board of Commissioners of Ada County*, 20 Idaho 392, 119 Pac. 41 (1911).

SUMMARY OF COMMON-LAW RULES APPLICABLE TO ALTERED DISTRICTS

In the absence of statutory regulation, financial adjustments following boundary changes must be made in compliance with principles of the common law. Those principles, according to the weight of judicial authority, leave all liabilities upon the original debtor district, or, if the corporate entity incurring the debt has been extinguished in the process of territorial reorganization, devolve them upon the successor district or districts, and assign property of fixed *situs* to the district in which it is subsequently located.

The common-law rule pertaining to movable or intangible property is not so clearly defined, however, for the rule of *situs* does not lend itself readily to application to property of this character. Where litigation has called for a judicial determination of rights to the personal property of a district which is being divided, either for the purpose of creating a new district or transferring a portion of its territory to another district, the general rule assigns such property to the parent district, on the theory that the corporate custody thereover remains undisturbed by any boundary alteration which does not result in the extinction of the district. This supporting premise is particularly applicable with respect to those items of personal property which have no semblance of a fixed *situs*. Application of this rule to money assets permits of no distinction as to the source of funds. Moneys apportioned to the district from the state common-school fund, as well as those derived from local district taxes, are retained by the parent corporation.

Where deviations from the general rule have occurred they have usually involved the allocation of such items as furniture and instructional equipment. In a few instances the courts have, directly or tacitly, construed these furnishings as having a fixed *situs* with the building wherein they were situated at the time of the boundary realignment, and have applied to them the same rule as to real property. It may be

presumed that the general failure of school officials to bring the apportionment of such property into litigation along with actions for the determination of property rights to reality is indicative of a tendency for them to regard the furnishings of the buildings as subject to the same rule which governs the apportionment of real estate.

INEQUITIES ARISING FROM APPLICATION OF THE COMMON-LAW RULE

The operation of common-law rules in the adjustment of assets and liabilities incidental to alterations of district boundaries may work great hardships upon the taxpayers of the areas affected, for the rules are inflexible and cannot be adapted to the particular equities of varied situations. Such resulting hardships are most likely to arise out of the detachment of territory or the division of districts. Under the common-law rule, any reduction in territorial extent of a district would leave upon the remaining area a larger burden of taxation than was contemplated at the time outstanding debts were incurred. Moreover, while the debt would remain intact upon the parent district it is entirely possible that the public property, for the acquisition or construction of which the debt was incurred, might be allocated to another district on the basis of *situs*. Regardless of the equitable reasons which might prompt deviation from the general rule in specific instances, the courts have usually held that, without a controlling statute, they are powerless to afford relief from these inequities, at least when no impairment of obligations is involved. Responsibility for such modification rests with the legislature, and, if the failure of the legislature to make provision for equitable adjustment results in inequitable apportionments, only the legislature can supply a remedy.

SUMMARY OF THE GENERAL NATURE OF STATUTORY PROVISIONS

The enactment of statutory formulae to control the devolution of assets and liabilities of altered districts has not followed any uniform pattern. Not only does wide disparity

exist from state to state, but even within a single state a different formula may be prescribed for each type of district. Broad, comprehensive, inclusive treatment of the problem is notably lacking in all too many instances. In a few states the legislative provisions are so restricted in their application, either by specific reference only to certain contingencies or by ambiguous language which obscures the full range of their applicability, that they do not extend to all types of territorial change which have legislative sanction therein. One of the most glaring inadequacies is the almost complete absence of statutory provision for the disposition of assets and liabilities of districts which are depopulated and abandoned through the acquisition of land by tax-exempt governmental agencies for non-residential purposes.

Much more legislative attention has been given to the matter of the devolution of district liabilities than to the apportionment of assets. Moreover, deviation away from the common-law rule as a pattern has been much more marked with respect to the provisions controlling the devolution of liabilities than for those pertaining to assets. This is particularly true in the case of bonded indebtedness. In fact, legislative concern with the devolution of district liabilities has centered chiefly around obligations of this character rather than floating indebtedness or unfulfilled contractual obligations, which not infrequently, are left without statutory directive to be allocated in accordance with the common-law rule. Since the common law holds the issuing district liable for indebtedness, notwithstanding any subsequent detachments of territory therefrom, it is natural that, in enacting statutory provisions pertaining to bonded indebtedness, there has been a greater tendency to hold detached portions of districts liable upon pre-existing obligations than there has been to permit any release from or shifting of such indebtedness. A goodly number of states, however, have taken a middle position and have vested administrative agencies with discretionary authority to make such adjustment of the debt

burden as the peculiar equities of each individual situation may demand.

Insofar as the union of entire districts may be involved, statutory formulae for the allocation of property rights of the absorbed corporations adhere closely to the common-law rule as a pattern, except for those few states which provide for a reconciliation of taxpayer interests in the districts affected. Procedures utilized to effect such a reconciliation include reimbursement to the absorbed district or its taxpayers for the public property taken over by the subsisting unit, the allowance of tax credits and/or the imposition of special tax levies, direct negotiation between district boards, and apportionment at the discretion of designated administrative agencies.

Greater deviation from the pattern of the common-law rule and more extensive use of devices for apportionment of property rights, however, characterize formulae applicable to the division of districts or the transfer of territory from one corporation to another. These may take the form of direct allocation by statute upon the basis of *situs*, with compensation to the parent district for any school property transferred; distribution by administrative agencies in accordance with the same rigid non-discretionary standard; or the delegation of discretionary power of apportionment to administrative agencies. When the territory of dissolved districts must be attached to neighboring units, the devolution of property rights is usually controlled by the provision applicable to annexation of entire districts or the transfer of portions of districts, as the case may be. In those few instances where the contingency of non-attachment is contemplated, the state or the county is usually designated as the successor to the assets. In some cases where the county receives such assets, there is the requirement that these be placed in a special fund to liquidate floating indebtedness of defunct districts. Elsewhere the general county school fund is the recipient.

Wherever statutory formulae for the disposition of moneys differ in character from those pertaining to the allocation of other types of property, the nature of the variation in every instance has been to accord the new or annexing corporations rights of apportionment not granted for other assets, or to base the apportionment upon a standard more sensitive to the educational needs of the respective portions of the original district. Unless there is statutory provision to the contrary, all moneys on hand, regardless of their source, are generally construed to come within the scope of the rule controlling the apportionment. Thus even the proceeds realized from the sale of bonds would be apportioned upon the same basis as funds derived from district taxes. Nor is any distinction ordinarily made by virtue of the fact that a portion of the moneys on hand may have been derived from state apportionment. In some jurisdictions, however, a distinction is drawn to permit a deviation with respect to state moneys apportioned subsequent to the alteration of a district, but which apportionment is based upon district reports submitted prior to the reorganization.

The whole problem of taxes in process of collection centers primarily upon a determination of the time at which a lien is created under a tax levy, for once the lien imposed thereby has attached to the property the tax moneys due from that property constitute an asset of the district wherein it is located. The difficulties that arise with respect to the levy, collection, and allotment of taxes in areas which have been annexed to or detached from a district subsequent to the making of a levy have their origin in the widespread failure of legislatures to define the tax status of property within such areas, or to specify the time at which tax liability starts to accrue against property with respect to the levies made by the various authorized taxing units. Consequently, it quite frequently remains for the courts to make this determination by construction of the general tax statutes. Where this has become necessary, the most prevalent view is that no liability may accrue against property under any tax levy until such

time as that levy has been extended for collection by the designated administrative officer. Hence, the tax status of property within any area detached from or annexed to a school district will, in most states, depend upon its jurisdictional situation at the time of the extension of any particular tax.

With the greater emphasis upon devolution of liabilities than upon apportionment of assets it is not surprising to find that many states do not require joint consideration of the two, but treat them as separate and distinct problems. Yet it is difficult to see how anything like an equitable adjustment of the affairs of an altered district can be effected unless joint consideration is given to the two matters, for they are really complementary rather than distinct and separate items. It is significant to note that the complementary nature of the two problems is almost universally recognized wherever discretionary power of apportionment is vested in administrative agencies, while such provisions as authorize separate and distinct modes of apportionment are most apt to be found in connection with direct devolution by statute or apportionment by administrative agencies on the basis of prescribed rigid formulae.

INADEQUACY OF STATUTORY PROVISIONS

When a general statutory formula for the devolution of the assets and liabilities of altered districts has been enacted, it is presumed that the legislature, in so acting, has taken into consideration all of the equities that may be involved. Analyses of the statutes now in force reveal, however, that in many instances they set forth inflexible provisions which may be productive of as much hardship and inequity as might similarly result from application of the common-law rule. Indeed, some of these statutes do no more than give legislative sanction to the common-law rule and provide implementation therefor. In those instances where the statutes provide due allowance for adjustment of the peculiar equities of varying situations, the procedure most commonly employed is the delegation of the discretionary power to some administrative

agency to effect an equitable apportionment of the assets and liabilities—jointly considered—of the district or districts involved. It is significant that such delegation of discretionary power of apportionment is most frequently to be found in those states which have relatively few types of districts.

Another respect in which the devolutionary statutes currently in force must be deemed inadequate is their all too frequent failure to provide for the full range of contingencies which may arise incidental to the alteration of district boundaries. Particularly is this true with respect to provisions pertaining to the assets or liabilities of dissolved districts. The absence or inadequacy of such statutory provisions is most noticeable with respect to the liquidation of liabilities. Insofar as taxable property remains within the territorial limits of the extinct district protection may be afforded to bondholders, either through statutory provisions pertaining to the attachment of liability for bonded indebtedness or, in the absence of such a statute, through application of the principles of the common law. If, however, no taxable wealth remains in the district, the absence of statutory provisions for the disposition of its liabilities becomes a serious matter.² The existence of a greater number of statutory provisions for the disposition of the assets of disorganized districts is no doubt attributable to the willingness, if not eagerness, of neighboring districts to annex the territory of these dissolved units, for the statutes quite frequently provide that the annexing unit will thereupon succeed to the assets. Only two states make practical application of the doctrine of state ownership

² Although falling beyond the scope of this immediate study, there is urgent need for investigation of the problem of the disposition of liabilities of districts which, although completely depopulated and deprived of taxable wealth through the acquisition of land by governmental agencies, may not be disorganized but must retain their corporate existence. In this study attention has been called to the Minnesota statute, which permits the dissolution of districts, all of whose lands have passed to the ownership of tax-exempt government agencies, *provided* that the district has no outstanding obligations. Laws of Minn. (1941) ch. 169, art. III, sec. 29. If, however, such liabilities do exist after the disposition of all district assets, the district must remain in existence, although without any means of raising the funds to liquidate the indebtedness. Nor has the legislature provided any general statutory means of disposing of such indebtedness.

of school property to assert a right to the assets of these dissolved units, although some others do vest title to such assets in the county. The absence of statutory provisions for the disposition of the assets of such districts, however, will not have such serious consequences as may be true with respect to liabilities. The rights of creditors are not involved, and hence there is no threat of impairment of contractual obligations. Moreover, the common-law rule provides a means whereby the public trust to which the assets of the disorganized district have been dedicated may be continued through annexation of the territory to that of some adjoining district or districts. Serious question may be raised, however, as to the propriety of permitting any such devolution of the property rights of a dissolved corporation upon a neighboring district, except that it be in proportion as the burden of providing educational facilities has been increased for the latter as a result of the dissolution.

CONCLUSIONS AND SUGGESTIONS FOR IMPROVEMENT

The drafting of a specific formula for the adjustment of the fiscal affairs of altered school districts does not lie within the scope of this study, which has been undertaken primarily for the purpose of presenting an analysis of the legal provisions of the several states bearing upon such adjustments. Varying conditions and patterns of district organization which exist from state to state make it virtually impossible to construct any one formula which would be universally applicable. It does seem both possible and feasible, however, that the data and analyses presented in the study be utilized as bases upon which to formulate certain general recommendations as to desirable features of such a formula.

Size of Administrative Unit

At different points in the study attention has been called to the fact that the more inflexible formulae of adjustment are more likely to be found in those states wherein the relatively small *ad hoc* districts constitute the predominant pat-

tern of district organization. This is undoubtedly due in part to the fact that the same forces which militate against the replacement of small districts by larger administrative units would also incite resistance to the delegation of discretionary power of apportionment to administrative agencies of any character. As the campaigns for school district reorganization³ into larger administrative units bear fruit, however, the way should thereby be paved for legislation establishing more flexible formulae for adjustments incidental to subsequent boundary alterations.

Concise and Comprehensive Treatment

One of the first requisites of a satisfactory statute controlling the devolution of assets and liabilities of altered districts is that it should be so clear and concise of statement as to leave no doubt as to the range and scope of its applicability. Moreover, the formula should be sufficiently broad and comprehensive as to provide for a wide range of contingencies extending to every type of territorial alteration of districts that has legislative sanction under the general laws of the state. There appears to be no logical reason for the enactment of provisions applicable only to some types of alterations while other types are left for adjustment in accordance with the common law. Such a practice is conducive to uncertainty and confusion. Throughout the study attention has been directed to instances of this kind in Illinois. Failure of a state to adopt a broad comprehensive formula applicable to all patterns of district organization permitted

³ In 1941 the Illinois General Assembly enacted a law authorizing the creation of county school survey committees for the purpose of studying the school districts of the several counties and recommending desirable reorganization. *Laws of Ill.* (1941) vol. 1, p. 1137, sec. 1-8. County survey committees were actually organized under the statute in seventeen counties. Final committee reports are now available from eleven counties. The report of the committee for DuPage County goes beyond an outline of boundary alterations for that county alone and makes specific recommendations for modification of the legal basis for reorganization throughout the state. Among these recommendations is the proposal that provision be made for the establishment, by referendum, of county units for rural schools. DuPage County School Survey Committee, *Final Report*, March 30, 1943, p: 11.

therein is to invite lobbying activity on the part of interest groups concerned only with obtaining or protecting some advantage with respect to particular local situations. Such motivation is not likely to yield legislation of a character compatible with the doctrine that local districts are but agents of the state in the discharge of a state function. On the contrary it is apt to produce formulae for only such contingencies as can gain the support of self-interest groups. Moreover, under such circumstances the incentive is strong for constant modification of the law as new contingencies arise or as advantage shifts for groups affected. Analysis of the historical background of the statutes of the various states would indicate that broad inclusive formulae are less frequently amended than those of more limited specific character. From this we might conclude that the existence of a statutory formula of broad inclusive scope serves to forestall the activity of pressure groups seeking personal advantage with respect to particular situations.

Flexibility of Formula

The goal of any devolutionary formula should be to make possible the equitable adjustment of those rights and obligations of the respective districts which have been disturbed by the boundary realignment. The attainment of this goal in any statute designed for general applicability necessitates that the formula should have sufficient flexibility to permit and facilitate the adjustment of the peculiar equities of varied individual situations. This cannot well be accomplished by any statute that is designed to be self-operative. The data of this study do not suggest the possibility that any statute can be formed in sufficient detail to cover all contingencies equitably, without the interjection of official discretion in some form. Various factors will enter into individual situations and complicate the adjustment. In addition to the items of assessed valuation of taxable wealth, appraised value of district assets, and the extent and character of district liabilities—the consideration of which is required by many stat-

utes—there are others of a more elusive character which entail more elements of personal judgment. These include analysis of current and projected population trends, of school attendance data, and of the specialized character as well as the location of school buildings.

A procedure admirably adapted to the attainment of this desired element of flexibility is the delegation to administrative tribunals of authority to effect an equitable adjustment of the fiscal affairs of the district involved in the territorial change. Adequate opportunity may thus be provided for presentation and deliberate evaluation of all the elements peculiar to a given adjustment. All phases of the situation bearing upon the determination of what will constitute an equitable adjustment may be subjected to investigation. Throughout this study the writer has been impressed by the fact that settlements effected by administrative agencies vested with discretionary authority are apparently much less frequently the subject of subsequent litigation than those resulting from the application of rigid self-operative statutes. This would indicate that the former method normally results in adjustments that are more equitable and more satisfactory to the parties affected than the latter.

If the delegation of discretionary power of apportionment is to be productive of the desired results, however, it is imperative that the grant of such power shall not be nullified by the imposition of statutory standards of such rigidity as to reduce the function of the tribunal to a mere ministerial act of performing prescribed mathematical calculations. James Hart states that:

Discretionary action involves the exercise of choice that is based not upon the evaluation of a mass of objective data, but upon the subjective evaluation of the advisability of alternatives, limited only by the vague standard of reasonableness and by considerations accidental to the given setting of the administrative action. It involves value judgments,

made according to criteria left vague.⁴

In discussing the vagueness of much of the terminology used in formulating standards for administrative action, Stason points to the variable range of discretion implied by terms which have been upheld by the courts, and concludes that generally "discretion would seem to be limited only by the broad consideration that it must be exercised in a non-capricious manner."⁵

No case has been found in the course of this study wherein any constitutional question was raised as to the adequacy of a statutory standard which merely prescribed that the apportionment be "equitable and just" or that the tribunal "shall make such apportionment of assets and liabilities as to it seems proper". In one instance in which an apportionment made by a county board of education under a guiding standard of "equitability" was sustained, the court observed that what constitutes an equitable distribution is a question of fact in each case.⁶

The data of this study provides no criteria, other than frequency of usage, upon which to base a recommendation as to what official or agency should be vested with this discretionary authority. Upon this basis some county board, preferably the county board of education, where such exists, would appear to be the logical agency to perform the function. If, however, the statutes sanction the boundary realignment of counties and of corresponding county school units, application of the same principle would require that the state board of education be designated as the apportioning agency. In the event that a state has no such body, this responsibility might well be assigned to the state superintendent of public instruc-

⁴ James Hart, *An Introduction to Administrative Law*, p. 141. See also Frederick F. Blachly and Miriam E. Oatman, *Administrative Legislation and Adjudication*, pp. 36-138, and Walter Gellhorn, *Administrative Law*, pp. 234-237.

⁵ Blythe Stason, *The Law of Administrative Tribunals*, p. 134.

⁶ *Rapp v. Bethel-Tate Consolidated School District, Clermont Co.*, et al., 58 Ohio App. 126, 16 N.E. (2d) 224 (1937).

tion, or to an *ex officio* board of designated state officials including the state superintendent.

Adequate safeguards should be erected against the abuse of the discretionary authority vested in the apportioning agency. To this end provision might well be made for appeal from a county to a state agency, with the right of final appeal to the courts through the writ of *certiorari*.

As an alternative to the delegation of discretionary power of apportionment, the writer would suggest that direct negotiation between the governing boards of the districts involved as a device applicable to most contingencies that might arise. Such a plan would likewise provide adequate opportunity for consideration of the variable factors affecting the interests of the several units involved. In addition to the protective feature of this interplay of interests, an added safeguard might well be provided in the form of a requisite validating vote of the electors affected.

Provision for Dissolved Districts

In addition to the general recommendation that a devolutionary statute be comprehensive in scope, the data presented in this study suggest the imperative need, in most states, of a more specific recommendation that statutory provision be made for the contingency of district dissolution. Complete and practical acceptance of the doctrine that the local school district is merely the agent of the state in the discharge of a state function and that, hence, title to school property actually vests in the state, carries with it certain strong implications with respect to the devolution of the assets and liabilities of a defunct and dissolved district. In the first place, the state, or the county as an intermediary agency, rather than an adjacent district should succeed to all the assets of dissolved districts. On the other hand, there should be an acceptance by the state of some degree of responsibility for the liabilities of such districts, particularly in those instances where the dissolution has resulted from the impact of forces beyond the control of the

residents of the district. The most imperative need for the acceptance of such responsibility by the state arises where the taxable wealth of the district has passed to tax-exempt ownership. Otherwise, actual impairment of obligation may result. In recognition of the complementary nature of assets and liabilities, a practical procedure would be to require that the net proceeds thus acquired by the state or county from the dissolution of districts shall constitute a special trust dedicated to the liquidation of liabilities of other districts similarly disorganized. It must, of course, be recognized that any program calling for state assumption of responsibility for the liquidation of indebtedness incurred by local units entails some danger of inciting reckless and excessive borrowing practices. Adequate protection against such a danger could, however, be provided by the imposition of a general requirement that all bonds issued by local school districts have prior approval by designated state authorities, and by the limitation of state acceptance of responsibility of such bond issues to those instances where district dissolution does not originate in the voluntary action of the residents thereof.

Attachment of Tax Lien

Perhaps the outstanding revelation of this study has been the urgent need, in most states, for clarification of the revenue statutes to fix the time at which tax liability starts to accrue under any particular levy. Since such statutory definition would be equally desirable for application to other types of governmental units, as well as school districts, it might appropriately be incorporated in the general revenue laws of the state rather than in the school code. Whether the making or the extension of a levy is to be accepted as the statutory time for the attachment of the lien would, of necessity, depend upon the general tax structure of each individual state. In the event that the date of extension be designated as controlling tax liability, however, it is imperative that some provision be made to cover the contingency of detachment of territory for the creation of a new district subse-

quent to the making of a levy by the parent corporation. Otherwise the property in the detached area might escape taxation and the new district be left without any source of funds for the current tax year. To forestall such a situation, a newly organized district might well be authorized to make a levy even though the regular statutory date for such action has expired, provided no current tax liability had accrued under the levy of the parent district prior to the division.

An alternative procedure which would effectively serve the same purpose of removing uncertainties as to the tax status of detached or transferred areas and forestalling any likelihood that property in such areas might thereby escape taxation would be the enactment of a statutory ban upon boundary alterations between the dates designated for the making and the extension of district tax levies.

VITA

The writer of this dissertation was born near Illiopolis, Illinois, January 27, 1899. His educational background has been as follows: graduated from Illiopolis High School in 1918; attended Illinois College at Jacksonville, Illinois, one year; received the degree of Bachelor of Science from the University of Illinois in 1924 and that of Master of Science from the same institution in 1928; attended summer sessions of the University of Chicago in 1930, 1931, 1936, 1937, and 1938; and resumed graduate work at the University of Illinois in the summer of 1941.

His professional career as a teacher and school administrator has been: superintendent of schools, Unionville, Iowa, 1920-1922; high school principal, Marshall, Illinois, 1924-27; instructor in educational administration in the Indiana State Normal School, Terre Haute, Indiana, during the summer sessions of 1925 and 1926; instructor in social sciences in the Springfield High School, Springfield, Illinois, 1927-29; and superintendent of schools, Lexington, Illinois, 1929-1939. In the fall of 1939 he joined the staff of the Division of University Extension of the University of Illinois, serving for two years as consultant on public forums, and later acting supervisor of the Visual Aids Service.

He has written or collaborated in the writing of the following: "The Value of Extra-Curricular Activities In the High School", *The High School Teacher*, October, 1925; "The Legal Status of School Bonds", *The American School Board Journal*, March, April, May, June, 1926; "Who's Who in Education—Eric Oscar May", *The High School Teacher*, January, 1928; "The Art of Questioning", *The High School Teacher*, October, 1933; "The Forum—An Instrument of Democracy", *Illinois Education*, September

1940; "Your Business as a Voter" (written in collaboration with Richard G. Browne and William G. Wood), *University of Illinois Bulletin*, Vol. XXX-VIII, No. 26, 1941; *Term Theme Manual for Preparation of Written Reports in Social Sciences*; and *An Accounting System for Student Activities* (written in collaboration with James R. Colbert). During the period 1925-35, he also served on the editorial staff of *The High School Teacher*.

